

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PENNSYLVANIA PUBLIC SCHOOL
EMPLOYEES' RETIREMENT SYSTEM,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

BANK OF AMERICA CORPORATION, et al.,

Defendants.

11-CV-00733-WHP

ECF CASE

**JOINT REPORT ON SCHEDULE FOR CLASS CERTIFICATION
AND FACT DEPOSITIONS**

Lead Plaintiff, Pennsylvania Public School Employees' Retirement System ("Plaintiff"), and Defendants Bank of America Corporation, Charles H. Noski, Neil Cotty, Kenneth D. Lewis, Brian T. Moynihan and Joe Lee Price ("Defendants"), respectfully submit this joint report for the Court's consideration at the July 26, 2013 case management conference.

CLASS CERTIFICATION PROCEEDINGS AND CLASS DISCOVERY

1. The parties propose the following schedule for class certification proceedings:

| DATE | EVENT |
|----------------|---|
| Sept. 20, 2013 | Deadline for Plaintiff to file motion and opening memorandum and supporting materials for class certification. |
| Dec. 13, 2013 | Deadline for Defendants to file memorandum of law and supporting materials in response to class certification motion. |
| Feb. 28, 2014 | Deadline for Plaintiff to file reply memorandum of law and any supporting materials for class certification. |

2. To the extent not already commenced, discovery on class certification may commence and must be completed by February 14, 2014.

DEPOSITIONS

3. **Number and Hours of Depositions.**

- a. **Plaintiff's Position:** Plaintiff and Defendants collectively may each notice no more than sixty depositions for Plaintiff and sixty depositions for Defendants collectively with a total duration of 420 hours devoted to questioning for each side. These limitations shall not apply to depositions taken for the sole purpose of preserving trial testimony of witnesses who are seriously ill, in prison, or expected to leave the United States and be unavailable for examination in this country after their departure.
- b. **Defendants' Position:** Plaintiff and Defendants collectively may each notice no more than thirty depositions with a total duration of 210 hours devoted to questioning for each side.

4. **Multi-Day Depositions.**

- a. **Plaintiff's Position:** No deposition may be taken by any side (Plaintiff or Defendants collectively) for more than two deposition days without consent of the parties or leave of the Court for good cause shown. A "deposition day" shall consist of one seven-hour day or two three and one-half hour half days, exclusive of breaks, although the parties may by mutual agreement extend the deposition day to more than seven hours in order to conclude the examination in one day.
- b. **Defendants' Position:** No deposition may be taken by any side (Plaintiff or Defendants collectively) for more than one deposition day without consent of

the parties or leave of the Court for good cause shown. A “deposition day” shall consist of one seven-hour day, exclusive of breaks.

5. **Examination by a Party Other Than the Party That Noticed the Deposition.**

- a. **Plaintiff's Position:** The time taken for cross-examination of any deponent shall not be deducted from the cross-examining side's total allotment of deposition time except to the extent that the time taken for cross-examination of a deponent (either by Plaintiff or collectively by Defendants) exceeds the time taken for direct examination of that particular deponent.
- b. **Defendants' Position:** The time taken for examination of any deponent by a party other than the party that noticed the deposition shall count toward the hours limit set forth above.

6. Without consent of the parties or leave of the Court for good cause shown, any deposition of a witness shall be deemed to be taken for all purposes, and a witness may not be recalled for further examination at deposition.

7. This report does not address merits expert depositions or merits expert discovery.

8. Parties may seek relief from these restrictions by agreement of the parties or upon application to the Court upon a showing of good cause.

Dated: July 12, 2013

Respectfully submitted,

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